

### **§ 159D-3. Definitions.**

The following terms, whenever used or referred to in this Article, shall have the following respective meanings, unless a different meaning clearly appears from the context:

- (1) "Agency" means the North Carolina Capital Facilities Finance Agency, an agency of the State created pursuant to G.S. 159D-38 of the North Carolina Capital Facilities Finance Act, codified as Article 2 of this Chapter.
- (2) "Air pollution control facility" shall mean any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing gaseous industrial waste and other air pollutants, including recovery, treatment, neutralizing or stabilizing plants and equipment and their appurtenances, which shall have been certified by the agency having jurisdiction to be in furtherance of the purpose of abating or controlling atmospheric pollutants or contaminants.
- (3) "Authority" shall mean The North Carolina Industrial and Pollution Control Facilities Financing Authority, a political subdivision and body politic of the State, created pursuant to the provisions of this Article.
- (4) "Bonds" shall mean revenue bonds issued under the provisions of this Article.
- (4a) "Code" means the Internal Revenue Code of 1986, as amended.
- (5) "Cost" as applied to any project shall embrace all capital costs thereof, including the cost of construction, the cost of acquisition of all property, including rights in land and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all machinery and equipment, installation, start-up expenses, financing charges, interest prior to, during and for a period not exceeding one year after completion of construction, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants and legal services, other expenses necessary or incident to determining the feasibility or practicability of such project, administrative and other expenses necessary or incident to the acquisition or construction of such project and the financing of the acquisition and construction thereof, including a reserve for debt services.
- (6) Repealed by Session Laws 2000, c. 179, s. 2, effective July 1, 2000.
- (7) "Financing agreement" shall mean a written instrument establishing the rights and responsibilities of the agency and the operator with respect to a project financed by the issue of bonds.
- (8) "Governing body" shall mean the board, commission, council or other body in which the general legislative powers of any county or other political subdivision are vested.
- (9) "Obligor" shall mean collectively the operator and any others (including, but not by way of limitation, any other person, collateral device or fund that shall be obligated to pay) who or which shall be obligated under a financing agreement or guaranty agreement or other contract or agreement to make payments to, or for the benefit of, the holders of bonds of the agency. Any requirement of an obligor may be satisfied by any one or more persons who are defined collectively by this Article as the obligor.

- (10) "Operator" shall mean the person entitled to the use or occupancy of a project.
- (11) "Political subdivision" shall mean any county, city, town, other unit of local government or any other governmental corporation, entity, authority or instrumentality of the State now or hereafter existing.
- (12) "Pollution and pollutants" shall mean any noxious or deleterious substances in any air or waters of or adjacent to the State of North Carolina or affecting the physical, chemical or biological properties of any air or waters of or adjacent to the State of North Carolina in a manner and to an extent which renders or is likely to render such air or waters harmful or inimical to the public health, safety or welfare, or to animal, bird or aquatic life, or to the use of such air or waters for domestic, industrial or agricultural purposes or recreation.
- (13) "Project" means any land, equipment or any one or more buildings or other structures, whether or not on the same site or sites, and any rehabilitation, improvement, renovation or enlargement of, or any addition to, any building or structure for use as or in connection with (i) any industrial project, which may be an industrial or manufacturing factory, mill, assembly plant, fabricating plant, freight terminal, industrial research, development or laboratory facility, industrial processing facility for industrial or manufactured products, a facility used in the manufacturing or production of tangible personal property, a facility used in the creation or production of intangible property as described in section 197(d)(1)(C)(iii) of the Code, or a distribution facility for industrial or manufactured products, or (ii) any pollution control project for industry which project may be any air pollution control facility, water pollution control facility, or solid waste disposal facility in connection with any factory, mill, plant, terminal or facility described in clause (i) of this subdivision, or (iii) any combination of projects mentioned in clauses (i) and (ii) of this subdivision. Any project may include all appurtenances and incidental facilities such as land, headquarters or office facilities, warehouses, distribution centers, access roads, sidewalks, utilities, railway sidings, trucking and similar facilities, parking facilities, landing strips and other facilities for aircraft, waterways, docks, wharves and other improvements necessary or convenient for the construction, maintenance and operation of any building or structure, or addition thereto.
- (14) "Revenues" shall mean, with respect to any project, the rents, fees, charges, payments, proceeds and other income or profit derived therefrom or from the financing agreement or security document in connection therewith.
- (15) "Security document" shall mean a written instrument or instruments establishing the rights and responsibilities of the agency and the holders of bonds issued to finance a project, and may provide for, or be in the form of an agreement with, a trustee for the benefit of such bondholders. A security document may contain an assignment, pledge, mortgage or other encumbrance of all or part of the agency's interest in, or right to receive revenues with respect to, a project and any other property provided by the operator or other obligor under a financing agreement and may bear any appropriate title. A financing agreement and a security document may be combined as one instrument.

- (16) "Solid waste" shall mean solid waste materials resulting from any industrial or manufacturing activities or from any pollution control facility.
- (17) "Solid waste disposal facility" shall mean a facility for the purpose of treating, burning, compacting, composting, storing or disposing of solid waste.
- (18) "Water pollution control facility" shall mean any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing liquid industrial waste and other water pollution, including collecting, treating, neutralizing, stabilizing, cooling, segregating, holding, recycling, or disposing of liquid industrial waste and other water pollution, including necessary collector, interceptor, and outfall lines and pumping stations, which has been certified by the entity exercising jurisdiction to be in furtherance of the purpose of abating or controlling water pollution. (1977, 2nd Sess., c. 1198, s. 1; 1987, c. 517, ss. 4, 4.1; 2000-179, s. 2; 2009-140, s. 8.)